

UNITED STATES DISTRICT COURT

for the
Western District of Oklahoma

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Richard Wayne Smith
Cimarron Correctional Facility
3200 S Kings Hwy, Cushing, OK 74023

Case No. MJ-22-805-STE

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the Western District of Oklahoma, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2251(a)	Production of Child Pornography

The application is based on these facts:
See affidavit

- ☒ Continued on the attached sheet.
☐ Delayed notice of days (give exact ending date if more than 30 days:) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Michael Hudson, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: Nov 8, 2022

City and state: Oklahoma City, Oklahoma


Judge's signature

SHON T. ERWIN, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT

I, Michael Hudson, having been first duly sworn, do hereby depose and state as follows:

1. Your affiant has been employed as a Special Agent (SA) of the Federal Bureau of Investigation (FBI) since June 2022. Your affiant was previously employed with the Kentucky Department of Fish and Wildlife Resources as a Conservation Officer in Kentucky for seven years and with the Gallatin County Sheriff's Office as a deputy in Kentucky for one year. As a Peace Officer, I enforced Kentucky state statutes by developing probable cause to make arrests, executing search warrants, and traffic violations. My primary duties as an FBI SA are to investigate criminal activities involving illegal possession, distribution, and manufacture of controlled substances, illegal possession and usage of firearms, interstate threatening communications, violent crimes, violent crimes against children, and possession and distribution of child pornography. I am a federal law enforcement officer who is engaged in enforcing the criminal laws, including 18 U.S.C. § 2251 through 2259, the Sexual Exploitation of Children Act (SECA), and I am authorized by the Attorney General to request a search warrant.

2. I make this affidavit in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to photograph the hands and fingers of Richard Wayne SMITH for evidence of violations of 18 U.S.C. § 2251(a). Smith is currently detained pretrial at the Cimarron Correctional Facility located at 3200 S Kings Hwy, Cushing, OK 74023, within the Western District of Oklahoma. The information to be searched by the United States is described in the following paragraphs and in Attachments A and B.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended

to show simply that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that Richard Wayne SMITH committed violations of Title 18, United States Code, Section 2251 (production of child pornography) and that evidence related to that offense is located on his person.

5. There is also probable cause to search the information described in Attachment A for evidence, instrumentalities, contraband or fruits of these crimes further described in Attachment B.

JURISDICTION

6. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711, 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court of the Western District of Oklahoma is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

PROBABLE CAUSE

7. I am aware that FBI Headquarters has been investigating a website (hereinafter the “TARGET WEBSITE”) that facilitated the advertisement and distribution of child pornography. The TARGET WEBSITE is located on the Onion Router, a/k/a Tor, a/k/a “the dark web,” and is designed to protect the anonymity of users engaged in child pornography trading and discussing the sexual abuse of children.¹ In July 2022, FBI Dallas learned that a target located in the Eastern

¹ The actual name of TARGET WEBSITE, the online aliases of users, and certain other operational details are known to law enforcement but anonymized in this affidavit to protect operational security. Investigation into the users of this TARGET WEBSITE and other similar websites remains ongoing and disclosure of

District of Texas was active on the TARGET WEBSITE, and that he discussed being sexually active with his daughter (reportedly aged 11 years old). This user, now identified as Richard Wayne SMITH (hereafter “SMITH”), also discussed with other users the proper way to begin grooming children for sexual activity with adults, such as by encouraging one user to become active with his daughter by trying to “grope her ‘accidentally’ and see how she takes it.”

8. In or about July 2020, SMITH’s user account shared several files, which he claimed depicted himself engaged in sex acts with his prepubescent daughter. An FBI agent assigned to FBI Dallas reviewed these files, two of which are described as follows:

File Name	File Description
daughterstighthole.jpg	This image depicts a compilation of four photos of a prepubescent female’s vagina. In one of the images, what appears to be an adult male hand is spreading the female’s vagina open. The child’s face is not visible.
fun with my Daughter Compilation.mp4	This video file depicts what appears to be a prepubescent female being vaginally penetrated by a cylindrical clear object. The video transitions to depict an adult male’s erect penis vaginally penetrating the prepubescent female’s vagina. Neither the adult male nor the prepubescent female’s faces are visible.

9. Based on my training and experience, these files constitute child pornography, as defined by 18 U.S.C. § 2256(8). These files were submitted to the National Center for Missing and Exploited Children, which responded that the files had not been “seen” before.

IDENTIFICATION OF RICHARD SMITH

10. Through investigation and the deployment of an undercover deanonymizing technique, an FBI Headquarters Online Covert Employee made contact with SMITH’s user account and was able to successfully identify an IP address associated with his residence. Further

the name of the website or targets’ aliases would potentially alert other Tor active site users to the investigation, potentially provoking users to notify other users of law enforcement action, flee, and/or destroy evidence.

investigation confirmed that SMITH was residing with his two female minor daughters at 4849 Haverwood Lane, Apt 1415, Dallas, Collin County, TX.

EXECUTION OF RESIDENTIAL SEARCH WARRANT

11. Concerned that SMITH's minor children were at risk of immediate harm, FBI Dallas applied for an emergency search warrant for SMITH's apartment. On July 8, 2022, United States Magistrate Judge Kimberly C. Priest Johnson, for the Eastern District of Texas, issued the requested search warrant for SMITH's residence. See 4:22MJ399. Members of FBI Dallas served the search warrant that same day, on July 8, 2022.

12. During the execution of the search warrant at SMITH's residence, agents located multiple electronic devices in the master bedroom, which was solely used by SMITH. Specifically, on the bed was an HP laptop computer, next to which agents located a Seagate 2TB external hard drive. Agents conducted a forensic preview of the Seagate external hard drive and observed multiple folders containing numerous files depicting child pornography. The folders were organized and included names indicative of child pornography. For example, agents located a folder with the name of the TARGET WEBSITE and other dark web files.

13. Agents seized digital devices, including the Seagate external hard drive for further forensic analysis. A subsequent review of SMITH's Seagate 2TB external hard drive revealed more than 23,000 images and more than 1,800 videos depicting child pornography. One folder, labeled "personal," included subfolders named with SMITH's two daughters' initials. Each folder contained images and videos of two different prepubescent females.

14. For example, the "personal" folder contained the files described in paragraph 12, above, which SMITH had distributed on the TARGET WEBSITE. In some of the images, blood could be seen on the child's genitals. Additional files are described as follows:

File Name	File Description
playtime.avi	This video file depicts an adult male's penis penetrating the vagina of what appears to be a prepubescent female. The female is lying on her back and the adult male appears to be standing over her.
vibe bate 1.avi	This video file depicts what appears to be a prepubescent female inserting a purple sexual device into her vagina while lying on a bed.
Eating.MOV	This video file depicts an adult male performing oral sex on the genitals of what appears to be a prepubescent female lying on her back.
Fingering.MOV	This video file depicts what appears to be a prepubescent female lying on her back and displaying her genitals to the camera as she inserts a finger into her vagina. An adult male's hand is seen spreading open her vagina.

15. Based on my training and experience, these files constitute child pornography, as defined by 18 U.S.C. § 2256(8).

16. Reviewing the metadata associated with these files, agents observed that many reflected a "creation date" of in or about July 2020, meaning that the files were saved to the Seagate hard drive at that time.

17. A review of some of the files under the "personal" folder included several unique features. For example, in the video titled "playtime.avi", the background of the room appears to consist of white tiles. Based upon interviews conducted with SMITH's minor daughters, the apartment where SMITH and his daughters previously resided (located in Conway, Arkansas, within the Eastern District of Arkansas), had white tiling throughout the unit, including in the bedrooms. In an interview with SMITH's ex-girlfriend, Yamili Lomeli, Lomeli was shown an image of the tiles from the "playtime.avi" video. Lomeli confirmed the flooring matched the Conway, AR apartment flooring. Your affiant determined SMITH resided at 15-B Sherry Drive, Conway, AR 72032 from June 2019 to February 2022.

18. A review of the file “fun with my Daughter Compliation.mp4” included the depiction of a clear cylindrical object being inserted into a prepubescent female’s genitals. The clear cylindrical object, later identified as being a plunger handle and seen being used in the video, was located at SMITH’s residence and collected as evidence.

19. Another video file, titled “vibe bate 1.avi” included a purple sexual device.² This purple sexual device was located during the search of SMITH’s residence. The bedding the prepubescent female is lying on in the video was identified in a separate image located on SMITH’s cellular phone. This image depicts SMITH’s dog lying on a bed. The unique pattern of the dots, swirls, and leaves on the bedding can be seen in both the child pornography video located on the Seagate hard drive and the image of SMITH’s dog located on his cellular phone.

20. A review of the physical characteristics of the adult male seen in the video and image files saved under the “personal” file revealed many unique features. For example:

- The white adult male has several distinct markings on his fingers, which are visible when he touches the prepubescent females. On what appears to be his left hand, there are what appears to be two freckles on his index finger. On what appears to be his right hand, there is a small scar that runs across the top portion of his index finger.
- In another video file, an adult white male with red facial hair can be seen performing oral sex on the prepubescent female. This facial hair matches the description of Richard Wayne Smith.

² Lomeili was shown images of the clear cylindrical object (i.e., the plunger handle) and the purple sexual device. Lomeli had not seen either of these objects and they had not been used in her sexual relationship with SMITH.

- In video “playtime.avi,” the adult white male’s erect penis is penetrating the prepubescent female’s genitals.³ Near the end of the video, the adult white male appears to ejaculate and remove his penis from the child’s body. Agents observed that his penis appears to be circumcised and is distinctive in that his penis appears to be the same length and width. Additionally, agents observed auburn pubic hair on the adult male’s genitals in several of the video files, including “playtime.avi.” In these clips, the adult white male’s torso is also visible.

21. Based on the foregoing, I have probable cause to believe that SMITH is the adult male in these videos and that he used his fingers, mouth, and penis to abuse the two prepubescent females. Photographs of SMITH’s hands and fingers are necessary to assist in identifying the adult male depicted in the files.

EXECUTION OF PREVIOUS BODY SEARCH WARRANT

22. In July 2022, FBI Dallas applied for a search warrant to take photographs of SMITH’s body, specifically, his face, hands, unclothed torso, penis, and pubic area. On July 29, 2022, United States Magistrate Judge Kimberly C. Priest Johnson, for the Eastern District of Texas, issued the requested search warrant for SMITH’s person. Members of FBI Dallas executed the search warrant on August 4, 2022.

23. The images captured by FBI Dallas were provided to FBI Little Rock to determine if charges could be pursued in the Eastern District of Arkansas based on SMITH’s production of child pornography while he resided in the Eastern District of Arkansas. On approximately August 17, 2022, FBI Little Rock forwarded the captured images of SMITH, along with image and video

³ This video appears to be a final, edited version. There are also clips saved in this folder that depict the same conduct under different file names.

files of child pornography retrieved from SMITH's residence to FBI Headquarters. FBI Little Rock requested members of FBI's Forensic Audio Video Image Analysis Program (FAVIAP) to compare the media files.

24. On September 19, 2022, a Photographic Technologist with FAVIAP contacted FBI Little Rock and requested that additional photographs of SMITH's hands and fingers as the previous photographs were insufficient for the requested comparison. FBI Headquarters asked for more detailed images of SMITH's left hand thumb and his right hand index and middle finger in order to complete the comparison.

PROPOSED METHODOLOGY

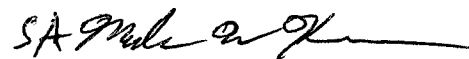
25. FBI Oklahoma City has agents who are assigned as search warrant photographers. Upon issuance of the requested warrant, one of these specialized agents will be assigned to take the photographs of SMITH's hands and fingers.

26. The FBI will utilize a digital camera, which will allow for immediate review of the images, and ensure that each photo was taken in focus. This will also limit the number of photographs taken. The FBI intends to take four (4) photos of each of the following parts of SMITH: the right hand, including the right hand index finger, and the left hand, including the left hand thumb.

27. Upon issuance of the requested warrant, FBI Little Rock will contact defense counsel for Richard Wayne SMITH to notify counsel at least 24-hours in advance of the service of the warrant, so that defense counsel or their proxy may be present when the photographs are taken. However, neither defense counsel's presence (nor their proxy's presence) will be required in order to effectuate the execution of the search warrant.

CONCLUSION

28. Based on the information set forth in this affidavit, there is probable cause to believe that Richard Wayne SMITH committed federal offenses, including the production of child pornography, in violation of 18 U.S.C. § 2251(a). Additionally, there is probable cause to believe that evidence related to the violation of 18 U.S.C. § 2251, including identifiers or visible characteristics of the adult white male depicted in the images and videos, is located on the person of Richard Wayne SMITH, and that this evidence constitutes evidence of a crime.



Michael Hudson
FBI Special Agent

Sworn and subscribed before me this 8th day of November, 2022.



Shon T. Erwin
United States Magistrate Judge

ATTACHMENT A

Property to Be Searched

The person of Richard Wayne Smith, currently in custody at the Cimarron Correctional Facility located at 3200 S Kings Hwy, Cushing, OK 74023.

ATTACHMENT B

Particular Things to be Seized

1. Photographs of the body of Richard Wayne Smith, the person described in Attachment A, and specifically Smith's:

- a. Hands;
- b. Fingers.

Law enforcement personnel are authorized to use means reasonably necessary to obtain the aforementioned items, including directing the person described in Attachment A to position his body to allow the photographer to capture the appendages and body parts identified above.